

CM

United States District Court, Northern District of Illinois

| | | | |
|--|----------------------------------|--|--------------------|
| Name of Assigned Judge or Magistrate Judge | William J. Hibbler | Sitting Judge if Other than Assigned Judge | |
| CASE NUMBER | 10 C 1225 | DATE | September 27, 2010 |
| CASE TITLE | Simonian v. Fiskars Brands, Inc. | | |

DOCKET ENTRY TEXT:

The Court DENIES Fiskars's Motions Motions to Dismiss and to Stay (doc. #20, 23, 27). The Court orders Fiskars to answer the Complaint on or before October 18, 2010. Status set for October 21, 2010 at 9:30 a.m.

[For further details see below.]

Docketing to mail notice.

STATEMENT

Thomas Simonian brings a *qui tam* action under 35 U.S.C. § 292 alleging that Fiskars Brands, Inc. had falsely marked some of its scissors. Fiskars moves to dismiss arguing that Simonian lacked standing and that he had not pleaded its intent to deceive with sufficient particularity. Fiskars also moves to stay pending the resolution of an appeal in the Federal Circuit concerning its standing argument.

The Federal Circuit has ruled, holding that § 292 gives relators standing to sue on behalf of the United States. *Stauffer v. Brooks Brothers, Inc.*, — F.3d —, 2010 WL 3397419, at *3-4 (Fed. Cir. Aug. 31, 2010). In addition, numerous courts in this District have rejected Fiskars's arguments concerning the adequacy of Simonian's pleadings. See, e.g., *Simonian v. Irwin Indus. Tool Co.*, No. 10-cv-1260 (Aug. 27, 2010 Order); *Simonian v. Oreck Corp.*, No. 10-cv-1224 (Aug. 23, 2010 Memorandum Opinion and Order); *Simonian v. Advanced Vision Research, Inc.*, No. 10-cv-1310 (Aug. 13, 2010 Order); *Simonian v. Cisco Sys., Inc.*, No. 10-cv-1306 (Jul. 29, 2010 Order). The Court adopts the reasoning contained in those orders and opinions.

The Court DENIES Fiskars's Motion to Dismiss and DENIES the Motion to Stay as moot. The Court orders Fiskars to answer the Complaint on or before October 18, 2010. Status hearing set for October 21, 2010 at 9:30 a.m.

2010 Sep 27 09:30 AM
U.S. District Court, Northern District of Illinois